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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1968

No. 1538 ~~—~~ 96

JAMES EDMUND GROPPI,

Appellant,

v.

STATE OF WISCONSIN,

Respondent.

ON APPEAL FROM THE SUPREME COURT OF WISCONSIN

MOTION TO DISMISS APPEAL

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1968

No. 1536

JAMES EDMUND GROPPI,

Appellant,

v.

STATE OF WISCONSIN,

Respondent,

ON APPEAL FROM THE SUPREME COURT OF WISCONSIN

MOTION TO DISMISS APPEAL

The respondent above named moves the Court to dismiss the appeal herein on the ground that:

NO SUBSTANTIAL FEDERAL QUESTION IS PRESENTED

The federal questions of due process of law and equal protection of the laws sought to be presented in this case are trivial and insubstantial.

At pages 18-19 of their Jurisdictional Statement counsel rely on the claim that appellant is a controversial figure whose activities have stirred many to anger and hostility against him, etc.

Father Groppi was a controversial figure not only in Milwaukee county but throughout the state, made so by himself. The very charge against him arose out of activity designed to publicize his cause. Why undertake a slow march, 3 or 4 abreast, arms locked, half way across Milwaukee, instead of taking the bus to City Hall? Father Groppi courted arrest, yet instead of cooperating with the policemen who accommodated him, he "went limp" and made it harder for them.

He must have thought then, and perhaps the fact was, that his course of conduct gained friends and support for the movement he advocated. Yet now before this Court he asserts it made only implacable enemies and prevented a fair trial.

But if there were people who were *against* Fr. Groppi in Milwaukee county, there were also those *favorable* to him. Whether both points of view would prevail in other counties to the same extent may be questioned, since his partisans were mostly in Milwaukee.

An adequate *voir dire* examination of the jurors should suffice to sort out any who might be suspected of harboring ill will against the defendant. It is impossible to say this jury was "drawn from a community * * * so exposed to prejudice that it [would] not likely be able to base its verdict on the evidence developed at trial" (App. Br. 21).

Nor is it claimed that the facts of the alleged crime were widely publicized in a manner unfavorable to appellant, so that he could not be fairly tried because of false or unfavorable notions implanted in jurors' minds.

The argument for appellant really amounts to saying that a person who supports unpopular causes and thus incurs the disapproval of the people of the state can never be tried for a charge of crime because no fair and impartial jury can be impanelled. This is not true in fact nor is it required by law.

Even if the trial court and the Wisconsin Supreme Court erred in their holding regarding the effect of sec. 956.03 (3), Wis. Stats., the error was harmless beyond a reasonable doubt since the jury was readily impanelled without difficulty in Milwaukee county, and hence the case does not merit the attention of this Court. *Chapman v. California,* (1967) 386 U.S. 18, 24, 87 S. Ct. 824, 17 L. ed. 2d 705. (See the concurring opinion below of Chief Justice Hallows, App. 12a).

It is therefore respectfully submitted that the appeal herein be dismissed and that certiorari be denied.

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